



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

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MINUTES STATE BUILDING CODE COUNCIL

Date: March 12, 2010

Location: Council Chambers, SeaTac City Hall, SeaTac

Council Members Present: John Cochran, Chair; Rod Bault; David DeWitte; Mari Hamasaki; Angie Homola; Bob Koch; Dave Kokot; Mark Kulaas; Jerry Mueller; David Peden; Tien Peng; Dale Wentworth

Council Members Absent: Kristyn Clayton, Ray Allshouse, John Chelminiak

Visitors Present: Kraig Stevenson, Dave Cantrell, Diane Glenn, Patrick Hayes, Charles DeMontigny, Pete Crow, Gary Schenk, Maureen Traxler, Joe Lane, Eric Lohnes, Kim Drury, Ed Golden, Tom Nichols, Chris Winslow, Jeanette McKague, Garrett Huffman, Anjela St. John

Staff Present: Tim Nogler, Krista Braaksma, Joanne McCaughan, Sandra Adix

CALL TO ORDER

Chairman Cochran called the meeting to order at 10 a.m. and welcomed everyone. Introductions were made.

REVIEW AND APPROVE AGENDA

The agenda was reviewed. Tim Nogler added an interpretation from Okanogan County under "Other Business." With that addition, the agenda was adopted as amended.

REVIEW AND APPROVE MINUTES

The minutes of the February 12, 2010 Council meeting were reviewed. Dave Kokot added technical commentary to his comments in the second paragraph on page 22 of the minutes. He said if a homeowner wants a pump and tank in his basement to run a sprinkler system, the local jurisdiction will require separate service. Doing so is not supported by the code.

Angie Homola questioned whether a quote by Chris Winslow of Kristyn Clayton's comments before the Joint Administrative Rules Review Committee was accurately stated. She said resolution of the question is difficult to establish in the absence of Kristyn Clayton from this meeting. Angie believes Kristyn's clarification is missing from the minutes.

Sandra suggested the Council may wish to postpone approval of the minutes until Kristyn has had the opportunity to verify her statement.

Motion #1:

Angie Homola moved to delay approval of the minutes of the February 12, 2010 Council meeting. Mari Hamasaki seconded the motion. The motion was unanimously adopted.

PUBLIC COMMENT ON ITEMS NOT COVERED BY THE AGENDA

Kraig Stevenson, International Code Council (ICC), said he gave Krista a copy of a flyer announcing Monday's rollout of the International Green Construction Code (IGCC). Interested parties may attend a conference call meeting about this code by dialing 866-609-4668. The IGCC can be downloaded free of charge, as either a Word document or as a PDF, as of March 15. Three hard copies of the code will be furnished to each jurisdiction, and copies will be made available to Council committees. Kraig will coordinate distribution of the IGCC.

On page 18 of the February 12 Council minutes, Kraig referred to Kristyn Clayton's comments about the ICC process: "...the IECC doesn't receive one-tenth of the review and debate, or the participation by interested parties, as the WSEC. Proposals arise from unknown sources, are discussed for two minutes and voted on by a very concentrated body of individuals." Kristyn said that's her main objection to moving to the IECC and IRC. Kraig said in 2006 there were 132 code change proposals to the IECC. In 2007, there were 154 comments. The 2009 IECC is comprised of 286 proposals that received 66 hours of testimony. To date 44 hours of testimony have been received on 231 proposals at Baltimore hearings, and another dozen hours are anticipated at final action hearings.

Kraig quoted a representative of the U.S. Department of Energy who testified about the ability to increase IECC efficiency by 30 percent:

“The IECC process is something that’s near and dear to the department. With the active participants of the process, we expect results to come from the process. And we want to make sure that we send a great message to the rest of the world after today’s hearing, that it is the best vetted and best group of folks that can write their own code. And we don’t need help from anybody else...except the collective group at the hearings that participate. We can get the 30 percent right here in this code change process.”

COMMITTEE REPORTS

Legislative Committee

Tim called attention to a legislative tracking log in the meeting handouts. He said there are currently only a couple of bills still alive, out of many introduced this session and tracked by the Legislative Committee. Yesterday the regular session ended without agreement on the budget, so a special session will begin on Monday.

Agency Transfer Bill

This legislation reorganizes the Department of Commerce (Commerce) and sends the State Building Code Council to the Department of General Administration (GA). Tim said such a move needs appropriation authority of the Council’s dedicated fund transferred from Commerce to GA. As of a couple weeks ago, that had not occurred. If it doesn’t, the Council will remain at Commerce.

SHB 2775 – Council membership

This bill was introduced by Representative Bruce Dammeier, an ex officio Council member. It has passed both houses of the Legislature and has been delivered to the Governor for her signature. It’s anticipated that the Governor will sign this bill.

As passed, SHB 2775 adds a qualification contingency for private sector Council members, similar to what has always been required of elected and public office representatives. Members representing the private sector must maintain sufficiently similar employment throughout their terms of office. Tim said the determination of what “sufficiently similar” means will be a judgment call initially made by the Council member.

An original proposal requiring Senate confirmation of Council members has been removed from the bill. Membership categories will stay the same, after legislative examination. Retirement and unemployment are not cause for ineligibility. Council members moving to employment outside the housing industry become ex officio members under SHB 2775.

Angie cited an example of an architect or engineer who, during bad economic times, temporarily becomes a bagel baker, while maintaining his/her professional license. She asked if that person is qualified to continue Council membership during that temporary period. Sandra Adix said there is no clear-cut answer. She said the Council has several options:

- Enter into rulemaking and establish what “sufficiently similar employment or circumstances” actually consist of.
- Refer to the Governor’s Office the question of whether eligibility is maintained by holding a professional license.
- The definition of “sufficiently similar employment or circumstances” may need to be discussed on a case-by-case basis.

John asked if the Council should make a recommendation to the Governor about replacing or retaining a Council member whose eligibility is in question. Tim said it’s the Council member’s responsibility first to notify the Council and the Governor’s Office that a change in employment has occurred. Then it’s ultimately the Governor’s decision whether or not to appoint a replacement. Sandra agreed that full and immediate disclosure by the Council member is called for. She noted that unemployment by itself is not a reason for ineligibility.

Tim pointed out an unintentional, grammatical error on page 2, line 4. He said the statement, “...term of office or three years or for so long as the member remains qualified...” can be interpreted to mean that a member remains on the Council as long as he or she is qualified, overriding the three-year term. The Governor will be made aware of that error.

Carbon Monoxide Alarms

Tim said the Council adopted a rule in 2009 requiring carbon monoxide alarms in all new residences by January 1, 2011 and in all existing residences by July 1, 2011. Based on testimony and input, the Council changed the original legislatively proposed date of 2013 to 2011. A bill was introduced this session to change the implementation date back to 2013 and to treat owner-occupied, single-family residences differently than the original bill. That legislation passed out of the House of Representatives but failed to move out of Senate committee. Tim testified for a neutral Council position.

Despite concerns expressed by the Apartment Owners Association, the Multifamily Housing Council and the Realtors Association, the Council rule requires carbon monoxide alarms in all residential apartments, whether or not they contain fuel-fired appliances, by July 1, 2011. Tim said he expects legislation on this issue again next session, which could become effective before the requirement takes effect.

Wildland Urban Interface Code (WUIC)

In 2009, the Council adopted the WUIC as an appendix to the International Fire Code, available for local adoption. During the 2010 session, legislation was introduced in both houses to mandatorily adopt the WUIC statewide as a minimum code. During substantial debate on the floor of the House of Representatives, many legislators supported Council

action adopting it as an appendix chapter. The bill was scheduled for, but failed to receive, a final vote. Tim said he expects future legislation on the WUIC.

Green Home Definition

A bill originated in the Senate, directing the State Building Code Council to define “green home” and establishing an energy efficiency code as an appendix. It passed the full Senate but died in House committee.

Joint Administrative Rules Review Committee (JARRC) Ruling

Two bills specifically addressed the JARRC ruling that objected to the Council’s 2009 adoption of the Washington State Energy Code (WSEC). Neither bill passed.

Tien Peng questioned the position listed on the tracking log, who it represents. Tim said it’s the position adopted by the Legislative Committee, who has authority to act on behalf of the full Council.

Angie asked if the WUIC then remains in the appendix of the IFC. Tim said it does. It’s available for local adoption effective July 1, 2010 as amended.

Mechanical, Ventilation and Energy (MVE) Codes Committee

Mari Hamasaki, MVE Committee Chair, said the committee met yesterday for the first time in 2010. She said Chuck Murray presented the draft Strategic Plan, prioritizing items and noting where workgroup meetings are needed. Mari said during the process it became clear that the MVE Committee will have to meet monthly, to develop the Strategic Plan into its final form to present to the Council in December 2010. Meetings were scheduled on the second Thursday of each month at 9 a.m. Council staff will distribute meeting notification to interested parties before each meeting, with location information. Mari said a detailed expansion of the work plan for the MVE Committee will have to be completed, to include monthly committee meetings. After each monthly MVE Committee meeting that’s followed by a Council meeting, Mari will update the Council about the status of the Strategic Plan.

Mari said the MVE Committee reviewed and discussed the International Energy Conservation Code (IECC) Work Plan, approving its detail.

Code change proposals for the mechanical and energy codes were reviewed. Two mechanical code change proposals were received. The proponent of one will be invited to present it to the Committee. Because the other mechanical code proposal also relates to the International Residential Code, the MVE Committee is forwarding it to the Residential Code TAG. The final proposal, authored by Patrick Hayes, replaces the WSEC with the IECC. Patrick was invited to present his proposal to the Council.

Mari said the next meeting of the MVE Committee will be held on April 8 at 9 a.m.

Tim handed out the 2010 work plan for the MVE Committee, including information about the strategic planning that was directed by 2009 legislation, currently in statute under RCW 19.27A. He said the legislation directs the Council to coordinate with the Department of Commerce on items dealing with future energy code increases and to develop a Strategic Plan that is due back to the Legislature at the end of 2010. Commerce is in the lead on the process for the Strategic Plan.

The work plan also included information on integrating the 2009 Washington State Energy Code with the 2012 International Energy Conservation Code and the 2012 IRC. Beginning this summer, and by June, 2011, the council will have an integrated document to review based on the 2012 International Codes which will be finalized at the end of this year. Those will be the base for integrating 2009's Washington State Energy Code. Staff will report periodically to the committee as a part of the monthly meetings on how the process is going.

Mari added that the work plan may be revised based on Council action on Patrick's proposal.

Executive Committee

John reported they met February 12 after the Council meeting. John presented a proposal on how to improve the process for code change amendments. The proposal would formalize several new TAGs, primarily the Green Sustainable Design TAG. It would also potentially consolidate the committees into one large committee. The goal was to improve the vetting of amendments proposed, strengthen the opponent and proponent positions, and improve or add to the rigor for considering amendments. John reported that the Executive Committee embraced the idea, but the proposal needs more work at the Executive Committee before being presented to the Council. The Committee does not have a meeting scheduled but will do so shortly, likely for April.

Tim added that the Committee looked at the specific structures of procedures, and that there may need to be changes to bylaws and revising the policies and procedures, which requires rulemaking.

The bylaws and WAC establish the process for reviewing statewide amendments and appointing TAGs. Some changes will need to be considered by the Council as a whole.

Tim added that they are also proposing a significant expansion of stakeholders as part of the process.

JARRC Determination

Tim gave background information on the topic. On Feb. 12, the Council held a public hearing. Information was sent out to all the Council members about the process. JARRC

filed an objection and finding last November that the process did not comply with all applicable laws. The finding required the Council to hold a public hearing on the finding. Now it is the duty of the Council to fully consider the testimony and respond.

Angie indicated that she really appreciated the testimony that was provided during the hearing about the current state of the economy. The Council's decision is not an easy one. The primary mission is to protect the health, safety and lives and welfare of citizens in the long term. The Council's response to JARRC should be that we believe the data used the best available science, and the Council made a unanimous decision.

Dave Kokot commented that it was his first meeting as a Council member. He had spent a lot of time going through the RCW requirements, and it appears the SBCC process followed all of them. He asked what specific part of the RCW requirements was not met. Much of the testimony at the hearing was more about the technical items, not the process itself. There was not adequate information provided to override the previous action.

A draft response to JARRC was handed out to members. John explained that the goal was to focus directly on JARRC's concerns, and bring this issue to a conclusion.

Dave Kokot commented that the response should specifically state that the Council did comply with RCW requirements and did submit a cost benefit. Dale added that the response should include dates and the items indicating compliance.

Angie indicated that the letter should emphasize in the conclusion that it is both the Council's opinion and the conclusion of the small business impact study. She pointed out that the draft document should have the date and clearly indicate that it is a draft document. She commented that it is challenging to show the Council's work in a short, concise manner.

Tien commented that he is uncomfortable with the word "unintended" preceding "consequences" in the third paragraph. There was general agreement to remove this word.

Angie stated that a previous draft of the letter had said that the Council considered what the consequences and costs would be if the Council didn't move ahead, and concluded that the impacts to the state would be far greater.

John asked if there was a timeline for the response. Tim responded that the "sooner, the better," so as to be able to respond to inquiries about the status of the code for the July 1 effective date.

John instructed the Council members to communicate their comments to Tim, who will distribute a second draft to members to get final approval. The letter will then go to the Legislature under John's signature.

Motion #2:

Angie moved that the members review the draft letter and send comments to Tim. John will finalize the letter by March 19. Jerry Mueller seconded the motion. The motion carried unanimously.

Review of Code Change Proposals

Members were provided with packets of the proposals received by March 1. There was discussion about whether to convene TAGs to look at each of the proposals.

Patrick Hayes submitted a proposal regarding the energy code, that, if accepted, would affect the work of the MVE Committee and the work plan. He was invited to the meeting to provide the council with a better understanding of his proposal.

Patrick thanked the Council for inviting him. He said that the concept behind the proposal was to align with the IECC requirements on an accelerated basis, in part due to controversy with the 2009 amendments to the 2006 Code. He reported that Chapter 9 is of concern and the AG's office has given an opinion that it could be litigated. The other issues is the air barrier requirement for buildings 5 stories and taller. There is only one company in the state of Washington that does the testing, and they only have experience to 6 levels.

There are many multi-family projects which are stalled, and could result in emergency rulemaking. There are four towers in Bellevue, and five towers in downtown Seattle in which they have completed the design drawings but now will not meet the new code.

Patrick reported that he had previously supplied the Council with a matrix that aligns all the sections of the IECC to current code. If changes were not made to the code now, he believes they will have to be made later as a result of emergency rulemaking.

The air barrier requirements would be very costly for commercial buildings, for both the testing and the initial installation. Dale stated that previous requirements have not had a dramatic cost impact, and questioned how the new requirements were significantly different. Patrick responded that his industry is doing these air barriers now and practicing on Built Green properties on a on a volunteer basis. This gives the industry a chance to ramp up. In his opinion, this requirement does not need to be in code now. There are products that are just emerging for the air barrier market.

Patrick indicated that the cost just for testing for one large building he was familiar with would be \$1.2 million. John stated that at the meeting he and Patrick attended, one of the testers had the Army Corps of Engineers as a primary client, who reported that there are not yet established criteria for testers to be certified. Additionally, both the tester and the Army Corps of Engineers voiced that putting the testing requirement into the code is problematic, and that they had never had a building pass the test the first time.

In order to restart the economy, Patrick indicated that it was important to allow buildings for which design drawings have already been prepared to move forward.

Patrick responded to Angie's question about whether the Council should wait before implementing changes. He indicated that it's "straight up economics," and that the Council can get more done by getting the economy going and building buildings. It would increase the 2006 Washington State Energy Code substantially with things that can be documented. There was no significant documentation submitted during the TAG process concerning energy models for Chapter 9. These items could come back as new proposals to the IECC.

Mari asked if this proposal is null and void if the 2009 WSEC doesn't go through. Patrick responded that the proposal is submitted in either case. He described two options: one option would be to suspend rulemaking and go forward with the proposal, and the second option would be to just suspend rulemaking on the controversial chapters, Chapter 9 and Section 1314. Depending on the decision of the MVE Committee, the Council would recommend to the Energy Code TAG that they review the proposal based on the matrix.

Patrick explained the differences in the new code concerning glazing, which he reported as significant and causing some projects to be in jeopardy.

Angie indicated that she had not read the proposal. She advised the Council not to get into a debate, although it is very important to hear public comment. Suspending Chapter 9 and parts of Chapter 13 would require extensive conversation by the Council, because the Council has previously made a definitive decision. In terms of specific buildings, if plans have been submitted then the projects are vested. If they have not been submitted, it is difficult to ask the Council to wait on adopting codes until the plans are submitted.

Patrick responded that his proposals do not affect single family homes, except for the changes in Chapter 9. He stated that if the Council does not address the issues now, other parties will go to emergency rulemaking or litigation. He believes the issues concerning air barriers in particular will end up in emergency rulemaking.

John clarified that the immediate question is whether the Council wants to consider the proposals. The proposals may affect the work plan of the MVE Committee.

Dave DeWitte asked what the drawbacks are to emergency rulemaking. Sandra addressed Dave's question. Rulemaking is finished for the rules adopted last year, and unless the legislature acts during the remainder of session, these rules become effective on July 1. Emergency rulemaking is a process implemented by the Council. Sandra stated that is not clear if the issues being discussed meet the criteria for emergency rulemaking, but instead would be more along the lines of an amendment to the rules passed. Emergency rulemaking should not be confused with legal action that would involve emergency injunctive relief.

Patrick indicated that when the Council passed some controversial rules in 2001, the Governor's Office was able to call for emergency rulemaking.

Angie asked Sandra about the difference in changes made concerning a closed record, and asked which body is able to make last minute amendments. Tim clarified that March 1 is the deadline for submittal of code changes, but that is just the first step in the next cycle.

Mari asked Tim to explain the timeframe for the work plan, and how it would fit within the process and go into effect. Tim explained that there would be several public hearings before it went into effect, and that the Council must decide whether the proposal moves forward to the TAG.

Tien asked what reason the Council would have to reject the proposal.

Patrick reported that Chapter 9 and the air barrier portion in Chapter 13 that is proposing to be suspended will be brought back in the IECC process. The air barrier portion could already be in the 2012 IECC.

Angie moved to table discussion of the proposal until all members of the Council have an opportunity to read the proposal. After discussion, the motion was withdrawn.

Mari clarified that Patrick was invited to comment to the Council because if his proposal was moved forward, the IECC work plan would need to be modified.

Tim suggested that the Council send the proposal to the Committee and have them report back in May. Patrick's proposal is different from other proposals in that it proposes an action that has already been discussed, and amends a code that has already been adopted.

Motion #3:

Mari moved to have Council members send comments on the proposal to the committee, and the committee to make a recommendation to the Council. Dale seconded the motion.

Angie questioned whether the process was in effect bypassing the Council by sending the proposal to the TAG. Mari explained that the Council members could comment on the proposal and recommend that the proposal come back to the Council for further discussion before going to the TAG.

Tim explained that the Executive Committee has discussed whether proposals should go directly to the TAG or go through the Council. In the past, the Council has not done a review of each proposal before sending it to the TAG.

Angie indicated that the normal process would seem like the Mechanical/Ventilation Codes TAG would consider the proposal and then report back to the full Council.

Tim suggested that the Council could schedule an April meeting and address all the proposals at that time. There are approximately twenty proposals.

Angie expressed concerns about the proposal and the ramification to the balance of other codes if it was adopted without a full understanding of the issues.

DeWitte asked about the clarification between the connection between proposal and the JARRC Letter. Sandra responded that the letter could be modified to indicate that some new ideas are being considered.

Tim suggested that all proposals be forwarded to the appropriate TAGs and committees. The Council can schedule a meeting scheduled for April to discuss the proposals.

In order to accept these proposals, they have to be accepted by the Council by their June meeting.

Mari amended her motion to send all proposals to the appropriate committee for recommendation as to whether to forward them through the TAG process or make a decision at the Council level. Dale reiterated his second. The motion carried unanimously.

Draft Interpretation

Dave Kokot and Ray Allshouse worked with staff at the city of Tacoma on the fire sprinkler pre-approved local amendment modification. Dave and Ray put together a discussion item clarifying that Appendix S defines the scope, whether single family, duplex, or town house. Appendix R addresses the processes necessary to meet the technical aspects. As an example, if a jurisdiction applies Appendix S but not a particular technical specification listed in Appendix R, the jurisdiction would need to make a presentation to the Council.

If approved, the interpretation would be affirmed in a letter to the city of Tacoma, essentially approving their local amendment.

Motion #4:

Mari moved the interpretation as drafted. Jerry seconded the motion. The motion carried with one abstention (Angie).

New Member Orientation

Tim provided a handout for members to provide a short overview about the Council processes. The Council now has an April meeting scheduled, but may need to consider scheduling a day for a more detailed orientation.

The Council has 15 members, including four legislators appointed by the caucuses in the legislature, and one agency represented: the State Chief Electrical Inspector.

There are four standing committees. The Legislative Committee met every Thursday during session to establish positions of the Council on legislation. There are two code committees: the Building, Fire and Plumbing and the Mechanical, Ventilation and Energy Code Committee.

There are five Technical Advisory Groups (TAGs) whose members are established by the Council to do technical review of the codes. There are code change proposals on an annual basis. If a change is adopted in an interim year, it is “on hold” until the next edition of the code is issued, unless the Council declares it an emergency. In theory, the Council could decide to table proposed code changes until the adoption year, and look at them at that time.

Angie asked if it was typical for the Council to begin now adopting codes, or to work on code changes but wait until the adoption year to formally adopt the amendments. Tim responded that historically the changes have been adopted annually, although the effective date is only every three years. The amendments still must go through the full legislative process, however.

The state does not have enforcement authority, instead all enforcement is done locally, including administrative requirements and setting fees.

There must be eight voting members (not including ex officio members) at a meeting for a quorum and thus, to pass a rule.

Cities and counties can amend the codes to make them more strict, with the exception of 1-4 units residential, which must be brought to the Council for approval. Seattle has many provisions which are different in its code, but the city maintains that overall their code meets the minimum state code.

Angie asked about the process if a local jurisdiction fails in its duty to enforce the code. The answer was that local affected citizens would have to bring lawsuits. The ratings that cities receive for bonds are based in part on performance ratings for their code enforcement. There are nine counties in the state that do not have fire marshals, and thus the minimum code adopted is the state code, but there is no one in the county to enforce the code.

The Council is given broad latitude, as deemed appropriate, to amend the codes. The goal is to have as few amendments as possible; however, but the number will never be zero. There are many state license facilities that have special rules which will require

amendments to the base code. The criteria for consideration of statewide amendments include: is it needed for critical life safety, is it needed to address a specific state policy or statute, is it needed for consistency with state or federal regulation, does it address a unique character of the state, or is it an error or omission.

Sandra provided an overview of the Administrative Procedures Act (APA) and the Open Public Meetings Act (OPMA).

The APA is a state statute with several parts to it. Part 3 covers the rulemaking process. However, there are three pivotal findings of the APA that are not referenced in Part 3: the CR 101, CR 102, CR 103. CR stands for Code Reviser. There are uniform forms that agencies use to file a proposed notice of rulemaking (CR 101). The proposed rules are published under CR 102. There is a requirement that agencies look at rules and determine whether they have a disproportionate impact on small businesses. The agency eventually will have final rules that it adopts, and those are filed with Code Reviser under CR 103, or notice of rule adoption.

Under the APA, the legislature gets to review and comment on decisions made by the SBCC, concerning whether the Council followed all applicable law. It doesn't happen frequently, but it did happen this year. The bipartisan legislative body that conducts the review is the Joint Administrative Rules Review Committee (JARRC). The legislature chose not to act on JARRC's finding this session.

When JARRC issues a finding on a rule, the finding gets published in the WAC along with the rule, which creates a certain stigma. There is a requirement that the Council respond to JARRC, but there is not an appeal process. The Council then either has to change the rule or have adjudication by a court that the rule was in compliance with the law, in order to remove the finding. Adjudication can occur if there is a rule challenge by litigation.

Sandra mentioned that there could be a challenge under federal law to Section 9 of the Energy Code. The challenge alleges that this rule may be preempted by a federal standard.

In order for JARRC to review a rule, there must be a formal request.

The Open Public Meetings Act (OPMA) was a citizen initiative that is now in state law, and requires that the SBCC, which is considered an agency under the act, must do its work in public. The public must be given notice of the time, date, and business that will be transacted.

There is a limited exception in the act for Executive Sessions, or closed meetings. If legal advice is being given, Executive Sessions may be necessary, but otherwise, meetings should be public.

A meeting is defined as a quorum of the Board or Commission having a meeting and discussing the business of the group. An action is defined broadly as not just a vote, but could include taking public testimony or considering an action.

The OPMA disallows Council members from exchanging emails or having side discussions or phone conversations about the Council's business, especially if a quorum of the members are involved in those discussions. The OPMA requires that the public be allowed to observe the meeting, but it does not required that they be allowed to participate. Members of the public not required to sign in or identify themselves at meetings, although most people do.

Dave DeWitte asked if council members can talk about business in numbers smaller than a quorum. Sandra stated Council members could, but that it was not advisable. It could result in what is known as a "rolling quorum," in which members spoke to one another one at a time, and is considered a circumvention of the OPMA. The best policy is to have discussions in an open forum.

Dave asked to what degree the OPMA covers communications between Council members and members of the public. Sandra responded that no one member of the Council is empowered to speak on behalf of the Council. If a member of the public is looking for more information, the best course of action is to refer them to Tim Nogler so that it can be included in the meeting packet. In this way, the communication is also available to members of the public. Council members can respond to thank members of the public for their comments and let them know that the comments will be submitted for the record to the rest of the Council, so that all members are apprised of what the members of the community are saying. These protocols ensure fairness.

Teleconferences are also covered by the OPMA. A notice must go out to the public identifying a public location where people can go to listen to a speaker phone, or a number must be provided so that people can call in to listen to the discussion.

There is no requirement that the meeting be recorded, although most boards and commissions do require that meetings are recorded so that minutes can be accurately recorded.

There was a discussion about how to include an open public comment period, and at what point in the meetings would be the best time to have this comment period. At the April meeting, the Council might have a more in depth discussion about this issue.

The April meeting will be conducted by teleconference, with a separate teleconference bridge for members of the public to listen in. The meeting was scheduled for April 9. The main discussion will be the proposals, and whether to move them to committee, delay, table or deny each proposal.

Tim directed members to the flow chart of the rulemaking process. It does not reflect the TAG process.

Tim explained that the revenue for the Council is provided from permit fees that is collected locally and submitted to the State Treasurer's Office under dedicated fund 084. The fee is \$4.50 per building permit, plus \$2.00 for each additional unit in a multi-unit building. The revenue has been very steady for 15 years, based on approximately 100,000 permits issued statewide annually. The recession of the last year has not affected the revenue. The permits subject to the fee are not just those for new construction, but also include remodeling and repair.

There was a short discussion about GMAP targets. Tim explained that performance measures are an area that will continue to be considered and discussed, particularly if the Council moves to another agency.

Tim stated that budget expenditures have been slightly under allotments to date for the year. The SBCC is currently staffed by four FTEs.

The Council discussed whether it would be an appropriate use of the funding to work on in-depth studies regarding economic impacts. Tim responded that it would be an appropriate use, provided the funds were under the right line item in the budget.

Tim encourages all members to visit the upgraded SBCC website and give him their feedback on the changes.

Staff Report

Tim announced that Sue Mathers, the Council's Secretary Senior, will be retiring from state service, effective April 1. He presented a card for the members to sign, thanking her for her years of service. There is a hiring freeze that takes effect during the week of March 15. The Council was unable to move forward with any action on filling her position prior to the freeze. We will be looking at filling the position from internal layoffs, or those in danger of being laid off. Tim will keep the members informed as this process moves forward.

Other Business

Okanogan County Interpretation

Tim noted the Council received an interpretation request from Okanogan County regarding the occupancy classification of dwelling units intended to be rented out on a short term, transient basis. Tim stated he discussed the subject with Ray Allshouse. The proposed response states that the local building official is responsible for making the designation. If the structure is a single unit it could be permitted under the IRC. The key issue of R-1 is the transient occupancy, because this could lead to disorientation if a fire occurs. If the units are offered for rent and have sleeping units, it would be most appropriate to mark them as R-1.

Motion #5:

Mark moved to adopt the interpretation response as written. Dave DeWitte seconded the motion. The motion carried unanimously.

ADJOURNMENT

There being no further business, Chairman Cochran adjourned the meeting at 1:50 p.m.

DRAFT